

Amendment No. 1 to SB0878

Kelsey  
Signature of Sponsor

**AMEND Senate Bill No. 878\***

**House Bill No. 1210**

by deleting all language after the enacting clause and substituting:

SECTION 1. This act is known and may be cited as the "Professional Employees' Empowerment Act."

SECTION 2. Tennessee Code Annotated, Section 49-5-608(a), is amended by deleting subdivision (7).

SECTION 3. Tennessee Code Annotated, Section 49-5-608(b), is amended by adding the following language as a new subdivision:

( ) Payroll deductions for dues or fees for membership in a professional employees' organization.

SECTION 4. Tennessee Code Annotated, Section 49-5-608, is amended by adding the following as a new subsection:

(d)

(1) A professional employees' organization shall:

(A) Notify a professional employee of the following before the professional employee joins the professional employees' organization:

(i) A professional employee has the right to join a professional employees' organization and to pay membership dues or fees to the professional employees' organization; and

(ii) A professional employee has the right not to join a professional employees' organization and not to pay dues or fees

required for membership in the professional employees' organization;

(B) Develop a form that a professional employee must execute each year of the professional employee's membership in the professional employees' organization consenting to pay membership dues or fees to the professional employees' organization. The consent form must be approved by the commissioner of education, and must include the professional employee's full name, position, the professional employees' organization of which the employee is a member and to which the professional employee consents to paying membership dues or fees, and the professional employee's signature. The form must also include the following statement printed in a type not less than fourteen (14) point boldface font:

"I am aware that I have a First Amendment right, as recognized by the United States Supreme Court in its decision in *Janus v. AFSCME*, to refrain from paying dues to a professional employees' organization. I further realize that membership and payment of dues are voluntary and that I may not be discriminated against for my refusal to join or financially support a professional employees' organization."

"I agree to pay the amounts specified in accordance with my professional employees' organization's bylaws. I understand that I may terminate my membership in the professional employees' organization and stop paying membership dues or fees to the professional employees' organization at any time.";

(C) Annually obtain each professional employee's consent to collect the membership dues or fees owed by the professional employee

for membership in the professional employees' organization, in accordance with subdivision (d)(1)(B);

(D) Upon receiving an executed form, as described in subdivision (d)(1)(B), from a professional employee consenting to pay membership dues or fees to the professional employees' organization, confirm its receipt of the professional employee's consent form by electronic or written means, and request a response from the professional employee to confirm the professional employee's consent to pay membership dues or fees to the professional employees' organization. Upon receiving the professional employee's confirmation of the professional employee's consent, the professional employees' organization may begin collecting payment of member dues or fees;

(E) Allow a professional employee to immediately resign from the professional employees' organization and prevent the accrual of any additional membership dues or fees. A professional employee must submit a notice of resignation in a written or electronic format to the professional employees' organization. Within thirty (30) days of the professional employees' organization's receipt of a notice of resignation, the professional employees' organization shall stop collecting any membership dues or fees from the professional employee, and no further debt to the professional employees' organization may accrue. A professional employee shall not waive the professional employee's right to immediately resign from the professional employees' organization, or to stop paying membership dues or fees to the professional employees' organization; and

(F) Maintain a written record of all consent forms and confirmations of consent received from professional employees and

provide copies of such documentation upon the request of an LEA or the commissioner of education.

(2) Notwithstanding this part to the contrary, if a local board of education determines that a professional employees' organization is not complying with this subsection (d), then the local board of education shall not participate in collaborative conferencing with the professional employees' organization until the board determines that the organization is complying with subsection (d).

(3) A professional employees' organization that violates subdivision (d)(1)(E) by collecting membership dues or fees from the professional employee more than thirty (30) days after the professional employee has submitted a notification of resignation to the organization is subject to a civil penalty for each violation. A professional employee may bring a civil action against the professional employees' organization for a violation of this subdivision (d)(3) in the chancery court in the county where the claim arose. If a professional employee prevails in an action brought under this subdivision (d)(3), then the professional employee is entitled to treble damages.

SECTION 5. If any provision of this act or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 6. This act takes effect July 1, 2021, the public welfare requiring it.